86-62

No. 85_____

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1985

J. JEROME PREVATTE, INDIVIDUALLY
AND WACO FINANCIAL, INC.

PLAINTIFF/APPELLANTS

v.

SECURITIES AND EXCHANGE COMMISSION,
ITS AGENTS AND EMPLOYEES; ET AL

DEFENDANT/APPELLEES

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

J. Jerome Prevatte
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(pro se)
835 W. Cedar St.
Kalamazoo, Michigan 49007

4PP

QUESTIONS PRESENTED

1. Is there a right to be free from Securities and Exchange Commission bad faith persecution and a right to sue SEC agents under 42 U.S.C. 1983 for administrative proceedings brought in bad faith by the SEC? Is a pro se litigant inlagh when dealing with the Securities and Exchange Commission or has that agency become a separate untouchable governmental branch?

2. May res judicata be the basis for dismissal where it was not raised as an affirmative defense. Where there was no means to defend against such a defense.

3. Are administrative proceedings or Proceedings arising out of administrative proceedings subject to res judicata, where there have been no proceedings or trial on the merits?

a. The issues of fact being different.

b. The Plaintiffs and Defendants being different.

c. There having been no trial on the merits. Where in fact issues found to be res judicata were not even a matter in previous action.

4. Does the District Court have jurisdiction over improper conduct or acts of those lawyers practicing before it.

5. May the inferior Court properly make a determination that the intent of the parties cause of action is, other than that actually intended or brought by the parties. That the gravaman of the action is other than that brought or intended, then using such incorrect supposition as cause for dismissal rather than having a trial on facts, before the proper (a jury) trier of facts?

6. May a judge set on a pro se litigant

case which involves allegations attorney malfeasance when that judge has a pro se malpractice action pending against him.

PARTIES-INVOLVED

PLAINTIFF/APPELLANTS

1. Petitioners, J. Jerome Prevatte is the President, Waco Financial a small securities dealer operating a full service securities brokerage firm, also offering discount commissions. Petitioners operated out of Suite No. 1 ISB Bank Building in Kalamazoo, Michigan. Waco at this time is not operating, at the time of the events which are the gravaman of this action employed in addition to Prevatte five to seven people.

2. WACO was a member of the NASD after having started business as a SECO firm. Numerous acetones were brought against Prevatte and WACO by the NASD and SEC. The basis of these actions were Petitioners contend motivated by malice. In no

case has the SEC ever found in any hearings that Prevatte or WACO violated any Securities rules, regulations or laws. In no case was the SEC able to produce a harmed client of WACO or Prevatte, as a witness. Prevatte has never been given an opportunity for a fair hearing in either the administrative process or the Courts. Petitioners have had no access to a fair forum with a hearing on the merits .

DEFENDANT/APPELLEES

1. The Securities and Exchange Commission is an agency of the United States Government, charged with the supervision of the securities industry by SEC Act of 1934, and the Maloney Act and the general supervision of the conduct within the securities industry. The SEC has a mandate to regulate the industry fairly.

2. John Shad, Chairman of the SEC.

3. William Goldsbery, agent and Director Chicago office.

4. Frank Laush, agent and attorney for SEC, Detroit office.

5. Mary Weiss, agent and attorney for SEC, Chicago office.

6. William Gaynor, agent and attorney for SEC Chicago office

7. Frank Rothing, former officer, Executive Vice President, Ast. Sec. (CBOE) Defunct, Front Street Securities, 110 Wall St. New York, New York, Chicago office, 141 W. Jackson Blvd. Chicago, Ill. Employee Ident. No. 36-2787473, improper trading practices caused firm to close and it may have gone bankrupt; now an accountant with SEC.

8. John Kuhn, agent and examiner for SEC, Detroit office, did Waco examinations.

9. David Brown, agent and examiner for

SEC, Chicago office sate day after day in WACO offices doing nothing or bothering WACO personnel. Did absolutely no useful function merely took NASD figures with no confirmation . If not enough time was devoted to giving him attention he became angry.

10 . Kenneth V . Miller, unassociated person, counsel for Prevatte and WACO.

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1985

No. 85_____

J. JEROME PREVATTE, INDIVIDUALLY
AND WACO FINANCIAL, INC.

PLAINTIFF/APPELLANTS

v.

SECURITIES AND EXCHANGE COMMISSION

ITS AGENTS AND EMPLOYEES;
JOHN SHAD, WILLIAM D. GOLDSBURY, MARY WEISS, WILLIAM GAYNOR, FRANK ROTHING, MIKE LAUSH, JOHN KUHN, DAVID BROWN, AND UNASSOCIATED INDIVIDUAL, KENNETH V. MILLER

DEFENDANT/APPELLEES

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS
FOR THE SIXTH CIRCUIT

Petitioners, J. Jerome Prevatte and Waco Financial, Inc. respectfully pray that a writ of certiorari issue to the Sixth Circuit Court of Appeals with instructions for a trial of the facts on the merits of the issues presented, (alleged). Petitioners contend that they can not obtain a fair forum in the Sixth Circuit due, inter alia to extensive improper ex parte acts on the part of SEC agent Weiss. Such acts have acted to preclude any proper hearing before the District Court, Western District of MI. Neither have the issues alleged in Plaintiffs' Complaint been before an impartial trier of the facts as the Opinion below would have one believe. Amendment V of the Constitution of the United States "..nor shall a person ... be deprived of life, liberty, or property, without due process of law...".

OPINION BELOW

Opinion of District Court and the 6th Circuit, is based on three assumptions which under settled law are not existing here:

a. Res Judicata

b. Absolute Immunity

c. No RICO claim

d . Inference of mislabeled action Appeal from a dismissal filed May 20, 1985 WD Mich . to the Sixth Circuit, order of the Dististrict Court affirmed, April 2, 1985 . At Appendix A, infra, pp A1 The order of the 6th Circuit Court Of Appeals shows a lack of any substantive imput or finding of fact. see Busche v. Burkee, Supra. Plaintiffs/Appellants submit that settled law does not concur with those findings.

JURISDICTION

The jurisdiction of the Court is invoked under Title 28 U.S.C. $$ 1254(1), and 2072 (maintaining the right to trial by jury).

Facts 1. This litigants have never has been found in any hearing before the Securities and Exchange Commission to have violated any securities law or regulation. Through a technical means and false representations, they have been deprived of a license, a lively hood and a business, and improperly so.

The allegations Plaintiffs/Appellants' complaint was that Prevatte and WACO having been disciplined by the National Asso-ociation of Securities Dealers, Inc., were precluded from dealing in securities under 15 U.S.C. Sec. 78o(b)(7). That the results were achieved by malicious prosecution conducted inter alia through a con-

spiracy. That the conspiracy was carried on by the named Defendants/Appellees . There was no plenary trial on those issues or the allegations in Plaintiffs/Appellants' com-plaint. The basis of the findings in Securities and Exchange Commission v. WACO Financial, Inc., 751 F.2d 831 (6th Cir 1985), was failure to exhaust administrative remedies.

2. Prevatte and Waco Financial contend that the basis underlying the administrative and the court action was false, misleading and included material undenied perjuris testimony. Captive individuals, from the NASD, and/or SEC examiners were the only sources of testimony.

3. After protracted litigation through the administrative process where the PLAINTIFF/ APPELLANTS were denied every conceivable due process and constitutional

right, redress was sought through the courts. Only after failing to obtain redress through the administrative process did Prevatte and WACO seek to achieve an equitable solution through the Courts. In the courts the SEC and the NASD have continued to give obvious false testimony, make false affidavits, make substantive and material false changes to sworn deposed testimony.

4. The SEC has also made material misrepresentations which are difficult for those not associated with the securities industry to understand. Within the securities industry accounts receivable and accounts payable, are referred to as **(FAILS)**. the such industry nomenclature for receivables and payables, was used without explanation. As stated by the SEC "Waco was failing to deliver, receive

(large dollar amount $250,000.00 to $300,000.00), of customer securities. Normal Broker/Dealer activity and industry (trade) terminology.

4. The SEC brought a complaint for injunctive relief which was granted. No request for any relief was ever requested by the SEC. In other actions such relief did not relate to the matter of the allegations of the complaint here, but rather, Court findings while doing so were not on the merits, rather, were founded in the failure to exhaust administrative remedies. The action here is based on the known improper administrative acts by SEC agents.

5. In 1976 agent Mike Laush attempted to have Prevatte sign a letter which would have deprived Prevatte numerious of Constitutional and due rights. After careful

consideration and consultation with a U.M. Law Professor James Flagen, Mr. Prevatte refused to sigh the Laush SEC letter. Upon being told by Mr. Prevatte that he would not sign that letter, agent Laush became very angry, stating, "if you don't sign that letter I'll have your ass".

6. The basis upon which agent Laush requested that Prevatte sign his letter was reexamined by the Chicago office, agent Smerstick. There was no cause for such a letter or any other action.

7. Waco and Prevatte subsequently joined the NASD after Prevatte passed the principal's examination and the financial principal's exam-ination. Prevatte failed to pass the latter the first time he took it.

8. Waco and Prevatte were expelled from the NASD, Prevatte alleges as a result of

a conspiracy, due to a personal vendetta by the NASD and SEC.

Violations if any, alleged by the NASD were only technical in nature, even if true, which Prevatte contests such violations should not have resulted in the sanctions imposed.

9. After expulsion from the NASD Prevatte contended that the refilling of SECO forms which were on file with the SEC as a SECO Broker/ Dealer were still effective. The SEC insisted on new forms being filed. WACO sent the annual fee to the SEC for operation as a SECO B/D the fee was were returned. The forms on file with the SEC were exactly the same as new forms with no changes. 9. It appears the Ms. Weiss of SEC in the sole case relied upon by the 6th Circuit Court, Securities and Exchange Commission v. WACO Financial, Inc., 751

F.2d 831 (6th Cir 1985), may have remained in Cincinnati after oral arguments in that case, 83-1309 on appeal from the WD Mich., to ghost the opinion therein. In effect the decision here was based on failure to exhaust administrative remedies, with no conclusions of the merits. The substantive nature of the issues presented to that Court were not addressed. see Busche v. Burkee, id This case was on appealed from the Western District of Mich., where agent Weiss had conducted undenied ex parte activities with that Court during the week just prior to the hearing in that Case that case now on appeal. The statement of the Gibson clerk, J. Bergman, " I had occasion to see her during that week". This Court in matters of Petitioner request for a fair forum in matters directly related to this undenied ex parte act

chose not to address the matter. Such acts were properly addressed in United States v. Kilpatrick, 570 F. Supp. 505, (DC Col 1983), the Court called such acts biz-arre, quoted Berger v. United States, 295 U.S. 78, 55 S.Ct. 629, 79 L.Ed 1314. Ex parte acts appear to be a way of life at the WD Mich Court, just last week Judge Enslen made a statement relating to such undisclosed acts of about a year earlier in a still pending case once again government agents participants.

STATEMENT

Fundamental fairness is the touchstone of due process. International Shoe Co. v. Washington, 326 U S 319, while due process places a degree of predictability to the legal system. World-Wide V. W. Corp. v. Woodson, 44 U.S. 286, 297 (1980). There is no evidence of fact finding in the dec

ision of the District Court. A reading of that opinion there will show a determination to dispense with the cause of action without the need to address the substantive issues of Petitioners complaint . There must be evidence of fact finding by Court Busche v. Burkee, 649 F.2d 509, 518 (7 Cir 1981) cert den 102 S Ct 396. Question No. 1. Is there a right to be free from SEC bad faith regulation. Is there a right to sue under 42 U.S.C. 1983 for actions brought in bad faith? The acts of the SEC in matters of Prevatte and WACO have been such as to give rise to action for conspiracy, 1983 claims and acts for damages under RICO. The issue controlling in this action is a 1983 claim with a Conspiracy to conduct malicious regulation under the color of law. With the specific intent to deprive Prevatte and WACO

of constitutionally guaranteed rights . Such acts constituted intentional misconduct on the part of the SEC agents. Blankenship v. Sec. of H.E.W., No. 76-2342, (CA 6 78). also see Jones v. Securities and Exchange Commission, 298 U.S. 1, 56 S Ct 654, 80 L Ed 1015. Section 1983 provides a remedy for all violations of rights secured by the Constitution, no conclusions have been made on such matters as are the gravaman of the action in Plaintiffs' allegations . The acts of the SEC and its agents were motivated by evil intentions, with reckless and callous indifference to federally protected right, see Smith v. Wade, 461 U.S. 31, 75 L.Ed.2d 632, 103 S.Ct. 1625. in the regulation of Prevatte and WACO. In Mark v. Graff, 521 F.2d 1376 (CA9 75) it was held that immunity is no more than qualified . Among the four

standards set out here the important one is, "are actions within bounds of immunity, -which is a question for a trier of facts." This matter Plaintiffs/Appellants submit are for a jury determination and should not have been dismissed . Plaintiffs commenced this action alleging inter alia a 1983 claims for malicious regulation.

The SEC also it is alleged conspired with the NASD in the administrative process to deprive Prevatte and WACO of Fifth, Sixth and fourteenth amendment rights. All matters before the Courts have been matters of or arising out of administrative procedures which Prevatte and WACO submit are not subject to res judicata. Loudermill v. Cleveland Board of Education, 721 F.2d 550, (6th Cir 83). Nor is there immunity for knowingly acting outside of the regu-

latory mandate to deprive persons of 1983 rights. Powers v. Lightner, 84-2312 (1-16-86) qualified immunity only available, agents should have known that the challanged action violated Constitutional rights. Tower v. Glover, 104 S Ct 2820 (1984) no immunity for interntional misconcuct. The SEC acted in bad faith in its prosecution of Prevatte and WACO and continued such bad faith prosecution while knowing that WACO was in compliance with the securities laws, (agent Gayno to SEC by phone on or about March 6, 1981, "they appear to be in compli-ance") yet SEC continued its harassment. There is a federal right to be free from such bad faith prosecution, Shaw v. Garrison, 467 F.2d 113 (CA 5 72). Question No. 2. Is res judicata required as an affirmative defense as in Blonder-Tongue Labortories v. Uni-

versity of Ill., 91 S.Ct. 1434, 402 U.S. 313. Here the Supreme Court held that to be effective as a defense, res judicata must be pleaded as an affirmative defense so that it could be defended against. Prevatte and WACO had no such opportunity in the District Court. SEC filed this defense in its motion to dismiss, and late, while never having filed any other affirmative defense. Whitlow v Hodges, 539 F.2d 582 (CA Ky 1976), Lower Courts are bound by Decisions of the United Supreme Court until such time as that Court informs them that they are not. Prevatte and WACO had no opportunity to defend against res judicata as is required under Blonder-Tongue Laboratories, id The lower Court based its dismissal on unrelated and issues not germane to the issue of those brought here. The issues herein addressed arise out of

admin-istrative actions which Prevatte and WACO contend are not subject to res judicata. Rachal v. Hill, 435 F.2d 59, 1970. also, Rospigliosi v. Colgher, 46 SO.2d 170 cert den 71 S Ct 81. Reviewed ad,omostrative adjudication has no claim preclusion effect in subsequent section 1983 action, Loudermill v. Cleveland Bd. of Education, 721 F.2d 550 (6th Cir 1983). There is no evidence nor did SEC advance any that a 1983 or conspiracy claims was ever tried on the merits. Materiality of the allegations of Prevatte and WACO, is a factual issue and a question for a jury, TSC Industries v. Northway Inc., 426 U.S. 438, 96 S Ct 2126, 48 L Ed.2d 757 (1956). Question No. 3. May res judicata be the proper basis for a dismissal when none of the basis or standards of res judicata exist:

a. issues different and could not have been raised.

b. parties different and could not have been joined.

c. no evidence of adjudication on the merits.

Under the Federal Tort Claims Act, right of action comes by way of 28 USCA Sec. 2671 and Sec. 2680(a), as well as 42 U.S. C. Sec 1981 through 1985. The SEC made its motion to dismiss on the an improper basis since the federal rights extend to the actions herein addressed and the SEC has made not even general denials of the allegations of the complaint. Neither has the SEC proven that the issues are the same, the parties are the same, or that the issues have had a full and fair trial on the merits. see Montana v. United States, 99 S.Ct. 970, 440 U.S. 147. A

party may not be estopped to raise issues that had less than full and fair opportunity to be litigated in prior proceedings, Whitney v. Seibel, 676 F.2d 245, 68 ALR F 848, cert den 103 S.Ct. 245, (CA7 1982). Also in res judicata the facts must be viewed in light most favorable to the non moving party, Clipper Express v. Rocky Mountain Motor Traffic Bureau, 690 F.2d 1240, 1250, (CA9 1982) More than records are needed to satisfy minimum requirement for the defense of res judicata, Concordia v. Bende Kovis, 693 F.2d 1073. Judgment on any grounds not involving merits not basis for res judicata, O'Connor v. G & R Packing Co., 74 AD.2d 39, 426 NYS.2d 557. Question No. 4. Is there Immunity for knowingly committed acts outside of the regulatory framework or guidelines ? Prevatte and WACO submit that there is no

such thing as absolute immunity . Officials acting in violation of the Federal Constitution are stripped of official or representative character, Exparte Young, 209 U.S. 123, 52 L.Ed 714, 28 S.Ct. 441, 13 LRA NS 932. see also Smith v. Wade, 461 U.S. 31, 75 L.Ed2d 632, 103 S.Ct. 1625. and Mark v. Graff, 521 F.2d 1376, (CA9 1975) it was found, government agents were entitled to no more than qualified immunity . The Plaintiff/Appellants herein were defrauded by the NASD and the SEC, they allege inter alia conspiracy with scienter under such conditions they should be able to take their case to a jury and recover if they can prove such fraud, see Herman and Maclean v. Huddleston, 74 L. Ed.2d 548, 103 S Ct 683 (US 1983). Question No. 5. Does the District Court have jurisdiction

over improper conduct or acts of lawyers practicing before it. It has been held that a District Court not only has the duty, but is obliged to do so, Wood v. Covington County Bank, 537 F.2d 804, (CA Ala 1976). District Court obliged to take measures against breaches of attorney client privileges or other duties connected with proceedings before it, Musicus v. Westinghouse Elec. Co., 621 F.2d 742, (CA Fla. 1980). The District Court has jurisdiction to enforce the American Bar Association's Code of Professional responsibility, Cannon v. U S Acoustics Corp 398 F.Supp. 209,(DC Ill. 1975) rev in part afd in part on other grounds, 532 F.2d 1118. The Federal Courts have the duty to inforce compliance with the 6th Amendment to the United States Constitution. Due to SEC Rule 2e the such effective assistance of

counsel was denied Prevatte and WACO in the actions before the administrative panels and in the Courts with respect to the counsel of Defendant Kenneth V. Miller. The basis for dismissal of the complaint against Kenneth V. Miller Plaintiffs/Appellants submit should not stand . Question No. 6. May the Lower Court properly make a valid determination as to the intent of the parties for their cause of action? A supposition for dismissal of the complaint with respect to Defendant Miller was that Prevatte and WACO were bringing a malpractice complaint under the cover of a conspiracy. Such was not the case. Prevatte and WACO content in the complaint that their counsel, defendant Miller with scienter withheld counsel in conspiracy with the SEC . Such actions rise to a level far beyond any malprac-

tice. The allegations of the complaint should be taken by the court as presented, unless there is clear evidence to the contrary Prevatte and WACO submit.

Question No. 7. While making a determination in a matter of a attorney, no doubt a friend, a member of the same bar, and in a small town. The District Court Judge at the same time had a ongoing malpractice case against him for omissions (failure to instruct the jury properly or to object to prosecutors statements with respect to clients failure to testify in his own behalf) while in private practice. Prevatte and WACO contend that there can not be a clear unbiased decision on the matter of a pro se litigant while a judge has a similar action pending against himself. Prevatte and WACO submit, that Judge Enslen should not have sat on the instant case

for the reason of the pro se malpractice case against him Hearn v. Enslen, A 83-300-250 NM Curcuit Ct. MI.

REASON FOR GRANTING WRIT OF CERTIORARI It is important that due process in administrative procedures be followed so as to assure that there is not the necessity of those subjected to the process to turn the Courts for proper redress. The administrative process is the only time that many citizens will ever come into contact with the legal process. It is also the purpose and objective of the law to try actions on their merits, not to dismiss them on mere technicalities, Yelton v. Plantz, 77 N.E. 2d 895, 226 Ind. 155. Settled law, equity, and justice favor the granting of this pitition.

CONCLUSION The

Petition for a writ of certiorari should

be granted notwithstanding the fact that the petition is brought pro se. The factual basis for the complaint against SEC and party defenants has not been challanged. There has been no affirmative defense nor discovery upon which to base a conclusion that the allegations should not be subjected to a jury trial on the merits. The facts and settled law support the conclusion that there has never been a trial on the merits with respect to the issues alleged. The dismissal below was, based on a motion filed late. The fact of the late filing of the motion to dismiss was never addressed by the Court, no order granting the late filing. There was never a responsive pleading by the SEC as required in the finding of res judicata for purposes of dismissal. The basis of the SEC support of its motion was not the

proper support as required for dismissal based on res judicata. There is no immunity for improper acts as alleged in Plaintiffs/Appellants' complaint. Grounds for immunity in the structure of the system today do not exist where there is scienter The pro se nature of the case and the fact that the Judge had at the same time an action brought by a pro se litigant for malpractice against him, raises a question of bias, the judge should have disqualified himself on that basis alone. The nature of the close relationship with defendant attorney Miller should have brought about a withdrawal by the judge. On the basis of the facts and settled law Plaintiffs/Appellants submit that, this case should be remanded for trial on the merits. Plaintiffs/Appellants respectfully pray for such relief.

Respectfully Submitted May 29, 1986

J. Jerome Prevatte

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(pro se)

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APPENDIX A

No. 85-1521

UNITED STATES COURT OF APPEALS FOR

THE SIXTH CIRCUIT

J. JEROME PREVATTE AND	]
	]
WACO FINANCIAL, INC.,	]
	]
Petitioners,	]
v.	]
	]
SECURITIES AND EXCHANGE	]
	]
COMMISSION, et al	]
	]
Respondent .	]

Filed April 2, 1986

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN.

BEFORE: JONES and NELSON, Circuit Judges; and EDWARDS, senior Circuit Judge.

PER CURIAM.

Plaintiffs J. Jerome Prevatte and Waco Financial Inc. appeal the dissmissal of their complaint against the Securities and Exchagne Commission, its chairman, several

SEC employees and a private attorney who formally repesented WACO and Prevatte. They allege that the defendants unlawfully disqualified them from engaging in the securities business in violation of the constitution and the Racketeer Influence and Corrupt Organizations Act, 18 U.S.C. et seq. (1982).

The district court dismissed the federal due process clams on res judicata gounds in light of this court's decision in Securities and Exchange Commission v. WACO Financial Inc., 751 F.2d 831 (6th CKir. 1985) cert denied 106 S.Ct. 65 (1985). The remaining federal claims were dismissed because the district court determined that the SEC enjoyed sovereign immunity and the individual defendants enjoyued absolute immunity from liability. Based on these determinations, the district court

concluded that the pendant state claims must also be dismissed.

We have reviewed the records and briefs submitted by the parties and agree with the district court's disposition of this case.

Accordingly, we AFFIRM.

APPENDIX B

No. 85-1521

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

J. JEROME PREVATTE AND	]
WACO FINANCIAL, INC.,	]
	]
Petitioners,	]
	]
v.	]
	]
SECURITIES AND EXCHANGE	]
COMMISSION, et al	]
	]
Respondent.	]
	]

NOTICE OF APPEAL TO THE SUPREME COURT

OF THE UNITED STATES

1. Notice is hereby given that the Petitioners, Prevatte and Waco Financial, Inc. the Petitioners named herein above, hereby appeal to the Supreme Court of the

APPENDIIX B

United States from States from the Order of the Appeals Court For The Sixth Circuit Case No. 85-1521.

JURISDICTION

2. The jurisdiction of the Supreme Court is hereby invoked under Title 28 U.S.C. $ 1254(1) and under Rules Of The Supreme Court Part V., Rule 17.

3. Such Order as issued here, Petitioners submit fails to show even the bearing of intellectual imput, appearing rather to have been issued by a clerk of the Court without judicial deliberation or consideration of the substantive nature of the issues presented. This Petitioners recalls having heard one of the honorable judges state on Nov. 7, 1984, while observing it at oral arguments on 83-1309, "We all came to the same conclusions while flying up here last night." indicating the amount of

time and intellectual imput expanded on that days proceedings. Petitioners in the instant Appeal, had no opportunity for oral arguments, Petitioners submit, due to the pro se nature of their defense. Plaintiffs/Appellants submit that no citizen now can find equity or justice,in fact will not even be considered or given time by the Court unless one has come to the Court with an attorney, such should not be the case. Petitioners ask that Judicial notice be taken of the fact, that citizens have just as insistent a right, that the Court has a duty and that the Judges have a duty to treat equally, and deal responsibly with the subsubstantive issues Presented to them, and the responsibility to treat fairly all those who come before the Court. If this Court demands respect, it

must respect those who are unforunate enough to or need to come before it. The abrogation of the duties of the judiciary to the clerical staff appears to this litigant to be the norm at the Sixth Circuit Court of Appeals.

When the fact that clerks are doing the work of the judiciary and making the deisions for which the Judges becomes so obvious, that it is apparent to a pro se litigant, it is time gentlemen for change, or some introspection searching by the Court on its own initiative. If gentlemen you do not chose to do it, at some point it will be done for you. The system will not long survive the type of justice and law you at the 6th Circuit are dispensing. The sole purpose of the Court is for the seek-ing truth, equity and justice. If any can be found in the proceedings in the

administrative or the Court proceedings with reference to Prevatte and WACO we would appreciate having such pointed out to us.

Abuse of discretion and process has been the norm throughout the total proceedings from the NASD administrative action

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1/ The NASD is the National Association of Securities Dealers, Inc. The only record in the instant action was developed by that Association (NASD). The SEC has made no determination on the issues herein address. There has been no administrative proceeding before the SEC the only action of the SEC was the denial of any order to produce the record or to require the NASD to follow its own rules in this administrative process as required per the Securities Exchange Act of 1934 as amended or Title 5 the Administrative Procedures Act. into the Gibson Court then on throughout the legal system,this it is appalling.
The denial of access amounts to suppression on the part of the Court in its continuing, single sided approach to the litigation herein addaddress. Anyone with any notion of justice and fair play should be appalled.

APPENDIIX B

THE RECORD

3. Petitioners request that the full record be forwarded from the Inferior Court to the Supreme Court Of The United States per the rule.

CAUSE FOR APPEAL

The Sixth Circuit Court has failed to address the substantive issues, the gravamen of the action and basis its order on a res judicata where inter alia the basis is administrative in nature and from which res judicata cannot follow. Where here has been no determination on the merits.

April 29, 1985 Respectfully Submitted

by_____

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CERTIFICATE OF SERVICE

I, J. Jerome Prevatte certify that I, on July 21, 1986 I caused to be served by first class mail, postage prepaid, Plaintiff/Appellants' Petition for Writ of Certiorari To The SUPREME COURT OF THE UNITED STATES.

July 21, 1986. By _____
J. Jerome Prevatte

The United States District Court
For The Sixth Circuit
United States Post Office & Courthouse
Cincinnati, Ohio 45202

The Securities and Exchange Commission
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